

# **EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

and

OSAGE MINERALS COUNCIL,  
Intervenor-Plaintiff,

vs.

No. 14-cv-704-GKF-JFJ

OSAGE WIND, LLC,  
ENEL KANSAS, LLC;  
and ENEL GREEN POWER  
NORTH AMERICA, INC.,

Defendants.

ZOOM/VIDEOTAPED DEPOSITION OF JOAN HEREDIA  
TAKEN ON BEHALF OF THE INTERVENOR-PLAINTIFF  
ON JULY 30, 2021, BEGINNING AT 10:31 A.M.  
ALL PARTIES APPEARING VIA ZOOM

APPEARANCES

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(Appearances continued on next page.)

VIDEOTAPED BY: Sean Shell  
REPORTED BY: Jane McConnell, CSR RPR RMR CRR

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(Appearances continued)

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STIPULATIONS

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It is hereby stipulated and agreed by and

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between the parties hereto, through their respective

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attorneys, that the deposition of JOAN HEREDIA may

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be taken pursuant to notice and in accordance with

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the Federal Rules of Civil Procedure on July 30,

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2021, before Jane McConnell, CSR RPR RMR CRR.

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<p>1 GE? Maybe be more specific, sir.</p> <p>2 <b>Q (BY MR. PIPESTEM)</b> Yes. So let's start</p> <p>3 with GE.</p> <p>4 A Okay.</p> <p>5 <b>Q</b> So with regard to communications about</p> <p>6 compliance with federal Osage Nation laws, did you</p> <p>7 communicate with General Electric about those</p> <p>8 issues?</p> <p>9 MR. BALL: Objection to form.</p> <p>10 A I don't recall. Like I said, I'm sure</p> <p>11 there would have been some general questions that</p> <p>12 would have been posed to me, but I was not the</p> <p>13 primary contact with GE nor did I manage that</p> <p>14 relationship.</p> <p>15 <b>Q (BY MR. PIPESTEM)</b> Have you ever worked on</p> <p>16 a project where a governmental authority notified</p> <p>17 the project proponent that a license or permit was</p> <p>18 required and the project proponent refused to seek</p> <p>19 or obtain that license or permit?</p> <p>20 A I don't know what you mean by "refuse."</p> <p>21 Generally we would evaluate requirements; and if</p> <p>22 they were applicable, we would proceed and comply.</p> <p>23 <b>Q</b> Are you aware that the Bureau of Indian</p> <p>24 Affairs and Osage Nation indicated in this project</p> <p>25 that Osage Wind was required to get a lease from the</p> <p style="text-align: center;">42</p>	<p>1 circumstances you can say on a project you were</p> <p>2 working on where an agency said you need a permit</p> <p>3 here and the company just said we don't think we</p> <p>4 need one, so, no, our answer to that is, no, we're</p> <p>5 not going to get that permit?</p> <p>6 A During the time that I worked with Enel</p> <p>7 Green Power, there would have been occasion when we</p> <p>8 would have talked to regulators to discuss permit</p> <p>9 requirements and our activities. But to the best</p> <p>10 of my knowledge, Enel Green Power never refused to</p> <p>11 obtain an applicable permit based upon the specific</p> <p>12 site activities.</p> <p>13 <b>Q Okay. So was there ever a project for</b></p> <p>14 <b>Enel where the governmental authority said a lease</b></p> <p>15 <b>or permit is necessary where the company disagreed</b></p> <p>16 <b>and said we are not going to seek that permit?</b></p> <p>17 A I believe that would be the case in hand</p> <p>18 that we're discussing, that there was some question</p> <p>19 as to whether or not Enel really felt that the</p> <p>20 permit was required.</p> <p>21 <b>Q Are there any other circumstances where</b></p> <p>22 <b>Enel was told by a government agency a permit is</b></p> <p>23 <b>required and it decided we are not going to seek</b></p> <p>24 <b>that permit?</b></p> <p>25 A It would be subject to legal review and</p> <p style="text-align: center;">44</p>
<p>1 <b>Osage Minerals Council that was approved by the</b></p> <p>2 <b>Bureau of Indian Affairs?</b></p> <p>3 MR. BALL: Objection to form.</p> <p>4 A I am not aware of a requirement for a</p> <p>5 lease. I can say that they claimed that a sandy</p> <p>6 soil permit could be required.</p> <p>7 <b>Q (BY MR. PIPESTEM)</b> So your understanding</p> <p>8 is that a sandy soil permit and a lease for minerals</p> <p>9 are different things?</p> <p>10 A I don't want to portray myself as a real</p> <p>11 estate expert, which would be more in the realm of a</p> <p>12 lease, but I am aware of the assertion that a permit</p> <p>13 could have been required.</p> <p>14 <b>Q So in the circumstance of the Osage Wind</b></p> <p>15 <b>project, are you aware that the Bureau of Indian</b></p> <p>16 <b>Affairs and the Osage Nation alleged that a permit</b></p> <p>17 <b>was required or a lease was required for the taking</b></p> <p>18 <b>of minerals?</b></p> <p>19 A I am aware that the Bureau of Indian</p> <p>20 Affairs alleged as such.</p> <p>21 <b>Q Okay. Have you ever worked on a project</b></p> <p>22 <b>where an agency alleged that a permit was required</b></p> <p>23 <b>and the company refused to get that permit?</b></p> <p>24 A Not if it was ultimately required.</p> <p>25 <b>Q Well, tell me about that. Any</b></p> <p style="text-align: center;">43</p>	<p>1 analysis of the requirements. And then based upon</p> <p>2 the legal review and the outcome of that, there</p> <p>3 would be the decision to move forward as to</p> <p>4 appropriate and comply with rules and regs.</p> <p>5 <b>Q But are you aware of any circumstance</b></p> <p>6 <b>where Enel was told by a governmental agency that</b></p> <p>7 <b>you're required to get a permit or a lease and the</b></p> <p>8 <b>answer from the company after that review was we</b></p> <p>9 <b>disagree, so we're not going to do it?</b></p> <p>10 A In the case of the Osage Nation and the</p> <p>11 sandy soil permit, my understanding is there was</p> <p>12 disagreement about the need to obtain that permit</p> <p>13 based upon our specific site activities.</p> <p>14 <b>Q But are you aware of any other</b></p> <p>15 <b>circumstances where that happened with Enel on any</b></p> <p>16 <b>other project?</b></p> <p>17 A No, because generally we would have</p> <p>18 thorough and diligent discussions with the counter</p> <p>19 parties in order to be able to come to a mutual</p> <p>20 understanding and cooperative approach on how we</p> <p>21 would address those issues. So I would say, in</p> <p>22 general, we worked through the issues with the</p> <p>23 agencies.</p> <p>24 MR. BALL: We've been going a little over</p> <p>25 an hour. If you get to a good stopping point, a</p> <p style="text-align: center;">45</p>